

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

TRISTAR INVESTORS, INC.,

Plaintiff,

V.

AMERICAN TOWER CORPORATION, AMERICAN TOWERS LLC, AMERICAN TOWERS INC., AMERICAN TOWER GUARANTOR SUB, LLC, AMERICAN TOWER HOLDING SUB, LLC, AMERICAN TOWER ASSET SUB, LLC, AMERICAN TOWER ASSET SUB II, LLC, AMERICAN TOWER MANAGEMENT, LLC, AMERICAN TOWER L.P., SPECTRASITE COMMUNICATIONS, LLC, and AMERICAN TOWER, LLC,

Defendants.

**AMERICAN TOWER, LLC, SPECTRASITE
COMMUNICATIONS, LLC, and
AMERICAN TOWERS, LLC,**

Counter-Plaintiffs,

V.

**TRISTAR INVESTORS, INC., DAVID IVY,
ED WALLANDER, ROBERT GILES, DALE
GILARDI, JERRY VOGL, JOHN
LEMMON, MICHAEL MACKEY, and
MATT NEWTON,**

Counter-Defendants.

**DEFENDANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME
FROM AGREED ORDER DATE**

COMES NOW American Tower Corporation, American Towers, LLC, American Towers, Inc., American Tower Guarantor Sub, LLC, American Tower Holding Sub, LLC, American Tower Asset Sub, LLC, American Tower Asset Sub II, LLC, American Tower Management, LLC, American Tower, L.P., Spectrasite Communications, LLC and American Tower, LLC (hereinafter collectively “American Tower”) and for their unopposed Motion, state as follows:

1. The parties have been in the process of completing their rolling document production and transitioning into witness depositions in this matter.
2. In response to TriStar’s production requests, American Tower has produced over 1.58 million pages of documents.
3. As part of the transition from production into depositions, the parties met and conferred on December 26, 2012 to discuss a date for the anticipated completion of American Tower’s rolling document production.
4. In light of the status of its production at the time, American Tower agreed to complete its remaining production by January 31, 2013. Pursuant to the discovery protocol in this matter, the parties entered into an agreed Order on January 7, 2013 that provided American Tower’s remaining document production would be completed by January 31, 2013. *See* ECF #76.
5. Since that time, American Tower produced an additional 548,000 pages of emails and documents by FTP site.
6. Last week, the undersigned discovered that a portion of American Tower’s emails previously collected were not produced to TriStar on January 8, 2013 as intended because a filter

for communications from attorneys employed by American Tower was applied to their communication with outside third parties.

7. The undersigned informed counsel for TriStar as soon as the issue was discovered and scope investigated, via a conference call on January 29, 2013.

8. American Tower's outside ESI vendor for this case, IRIS Data Service, is imaging and producing these remaining emails as quickly as possible, but the completion date will extend beyond the January 31, 2013 agreed date.

9. While the exact number of remaining documents is currently unknown, it is estimated that there are approximately 210,000 remaining documents.

10. After discussions with TriStar's counsel, to expedite the process, the parties agreed to a protocol for a rolling production of these remaining documents. Thus, IRIS is producing the remaining documents every few days, rather than producing them in one complete production. The first four of American Tower's custodians' remaining emails will be produced by IRIS within approximately one week, with at least one custodian's production later today.

WHEREFORE, American Tower respectfully requests the Court extend the date for completion of American Tower's document production of January 31, 2013, as contained in the agreed Order of January 7, 2013 (ECF# 76), through and including February 22, 2013.

Dated: January 31, 2013

Respectfully submitted,

/s/ Michael L. Nepple
Michael L. Nepple
Missouri State Bar No. 42082
THOMPSON COBURN, LLP
One US Bank Plaza
St. Louis, MO 63101
Telephone: (314) 552-6149
Facsimile: (314) 552-7000
mnepple@thompsoncoburn.com

Jon G. Shepherd
Texas State Bar No. 00788402
Courtney L. Sauer
Texas State Bar No. 24066026
ALSTON & BIRD, LLP
2828 N. Harwood Street, Ste. 1800
Dallas, TX 75201
Telephone: (214) 922-3400
Facsimile: (214) 922-3899
jon.shepherd@alston.com
courtney.sauer@alston.com

David M. Rownd
Illinois State Bar No. 6207951
THOMPSON COBURN, LLP
55 E. Monroe Street, 37th floor
Chicago, IL 60603
Telephone: (312) 580-2311
Facsimile: (312) 580-2201
drownd@thompsoncoburn.com

CERTIFICATE OF CONFERENCE

I hereby certify that on January 29 and 30, 2012, I conferred with Matthew Stammel, counsel for TriStar Investors, Inc. to discuss the issues raised in this Motion. The parties also exchanged their views on the issue in telephone conferences on January 29 and 30, 2012. Counsel was able to reach an agreement and, thus, this Motion is therefore being filed unopposed.

/s/ Michael L. Nepple
Michael L. Nepple

CERTIFICATE OF SERVICE

On January 31, 2013, I electronically submitted the foregoing document with the Clerk of the Court for the U.S. District, Northern District of Texas, using the electronic case filing system of the Court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by any other manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Michael L. Nepple
Michael L. Nepple